

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of) Case No.: **12-O-17810-DFM**
)
ROBERT ROMAN,) **DECISION**
)
Member No. 93369,)
)
A Member of the State Bar.)

Introduction¹

In this disciplinary matter, Respondent Robert Roman stipulated to culpability in three counts of professional misconduct in one client matter, including (1) failure to maintain client funds; (2) misappropriation; and (3) failure to cooperate with the State Bar.

Thus, the main issue in this matter is the level of discipline. In view of Respondent's misconduct and the evidence in mitigation and aggravation, the court recommends, among other things, that Respondent be suspended from the practice of law for three years, that execution of suspension be stayed, that he be placed on probation for three years and that he be actually suspended for two years and until he provides proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

¹ Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

Significant Procedural History

The State Bar of California, Office of the Chief Trial Counsel (State Bar), initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on June 20, 2013. Respondent filed a response on July 12, 2013. The parties filed a stipulation to facts and conclusions of law on October 22, 2013.

Trial was held on November 14, 2013. The matter was submitted for decision following trial. Deputy Trial Counsel Timothy G. Byer represented the State Bar. Respondent represented himself.

Findings of Fact and Conclusions of Law

The following findings of fact are based on the October 2013 stipulation, Respondent's response to the NDC, and the evidence presented at trial.

Jurisdiction

Respondent was admitted to the practice of law in California on October 31, 1980, and has been a member of the State Bar of California at all times since that date.

Case No. 12-O-17810 – The Hernandez/Garcia Matter

Respondent represented Silvestre Hernandez and Aurora Garcia, husband and wife, in a personal injury matter arising out of a motor vehicle accident that occurred on January 10, 2011.

Respondent signed two medical liens, authorizing Dr. Andrew Paz to provide medical care to Hernandez and Garcia on January 14, 2011, and March 4, 2011, respectively.

On December 19, 2011, Dr. Paz released Hernandez and Garcia from his care. Dr. Paz's final bill for the medical services that he provided to Hernandez and Garcia totaled \$10,470: (1) \$6,755 for Hernandez; and (2) \$3,715 for Garcia.

On April 26, 2012, Respondent wrote to Dr. Paz and other medical providers, notifying them of a proposed settlement with AAA, the insurance carrier, before it was finalized. In his letter, he indicated that the various lienholders needed to reduce their liens and that he was willing to reduce his fee from 33.3% to less than 25% (\$2,500) in order to settle the case and to give some funds to the clients. He suggested that the lienholders divide the remaining balance of \$4,676 among themselves. His proposal was calculated as follows:

Proposed settlement funds	\$10,765
Attorney fee	(\$2,500)
One-third to clients	<u>(\$3,589)</u>
Balance to lienholders	\$4,676

In May 2012, Respondent settled Hernandez's and Garcia's personal injury claims with AAA in a total amount of \$10,765. On May 4, 2012, AAA sent Respondent a settlement check of \$7,000 for Hernandez's claim and a settlement check of \$3,765 for Garcia's claim. On May 11, 2012, Respondent deposited the two checks in his client trust account (CTA) at Wells Fargo Bank.

Respondent's contingency fee was 25% of the \$10,765 settlement funds, which was \$2,691.25. Because of the liens and Respondent's entitlement to his contingency fee, Respondent was obligated to maintain \$8,073.75 in the CTA (\$10,765 - \$2,691.25).²

Based on his assumption that the medical providers would accept his April 2012 proposal and on his belief that medical providers in such cases would customarily agree to accept, on June 21, 2012, Respondent sent Hernandez and Garcia a single settlement check in the sum of \$3,589, representing both of their claims and one-third of the settlement funds.

² Although the parties stipulated that Respondent had a fiduciary duty to maintain \$10,470 in his CTA for the potential benefit of Dr. Paz, at trial it was determined that the correct amount is \$8,073.75 based on Respondent's entitlement to his 25% contingency fee on the \$10,765 settlement and a reduction for certain costs incurred in the case.

Dr. Paz had not affirmatively agreed to this arrangement before the settlement was consummated, and Respondent did not immediately notify Dr. Paz of the settlement. Instead, Respondent spent the remaining money that should have been maintained in his CTA. On July 16, 2012, the balance in his CTA fell to \$4.13.

When Dr. Paz found out about the settlement from the clients, he tried to collect his liens of \$10,470 from Respondent. Respondent admitted to the Dr. Paz that he had misappropriated the funds owed to the doctor for services rendered to the clients. Respondent readily acknowledged that he used the money for his own benefit.

On October 15, 2012, Dr. Paz made a complaint against Respondent with the State Bar.

On October 31, 2012, Respondent and Dr. Paz then worked out an agreement whereby Dr. Paz agreed to reduce his liens and accept \$6,000 in satisfaction of his bill, payable in two installments. Respondent paid \$3,200 on or about November 1, 2012, and \$2,800 on or before December 31, 2012. Dr. Paz's liens of \$6,000 were then completely satisfied.

On February 14 and March 6, 2013, a State Bar investigator sent letters to Respondent, both of which he received, in which the investigator requested a written response by Respondent regarding Dr. Paz's complaint by February 28, 2013, and March 15, 2013, respectively. On March 27, 2013, Respondent wrote that he would provide a substantive response by April 3, 2013. But he never provided that substantive response, in writing or otherwise.

Count One – (Rule 4-100(A) [Failure to Maintain Client Funds in Trust Account])

Rule 4-100(A) provides that all funds received or held for the benefit of clients must be deposited in a client trust account and no funds belonging to the attorney or law firm must be deposited therein or otherwise commingled therewith, except for limited exceptions.

Respondent was obligated to maintain \$8,073.75 in his trust account because of the lien of Dr. Paz. Because the balance of the CTA in July 2012 was \$4.13, the court finds that

Respondent failed to maintain \$8,069.62 (\$8,073.75 - \$4.13) in trust for Dr. Paz, in willful violation of rule 4-100(A).

Count Two - (§ 6106 [Moral Turpitude])

Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment.

Respondent has stipulated, and this court finds, that Respondent misappropriated \$8,069.62 (\$8,073.75 - \$4.13) owed to Dr. Paz under the liens. This sum includes the \$3,589 that Respondent improperly disbursed to his clients on June 21, 2012, when all of those funds remained subject to Dr. Paz's \$10,470 lien.

It is well settled that the mere fact that the balance in an attorney's trust account has fallen below the total of amounts deposited in and purportedly held in trust, supports a conclusion of misappropriation. (*Giovanazzi v. State Bar* (1980) 28 Cal.3d 465, 474-475.) The rule regarding safekeeping of entrusted funds leaves no room for inquiry into the attorney's intent. (See *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113.) "[O]nce the trust account balance is shown to have dipped below the appropriate amount, an inference of misappropriation may be drawn." (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618.) When the balance in the CTA fell below \$8,073.75, to a balance of \$4.13 by July 2012, Respondent misappropriated \$8,069.62 that was held on behalf of the clients' medical providers.

Thus, Respondent committed an act of moral turpitude in willful violation of section 6106 by misappropriating \$8,069.62, which was intended for his clients' lienholder.

Count Three – (§ 6068, subd. (i) [Failure to Cooperate])

Section 6068, subdivision (i), provides that an attorney has a duty to cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against the attorney.

Respondent has stipulated, and this court finds, that by not responding to the State Bar investigator's letters, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of section 6068, subdivision (i).

Aggravation³

Prior Record of Discipline (Std. 1.5(a).)

Respondent has one prior record of discipline. On July 9, 2013, the California Supreme Court filed an order suspending Respondent from the practice of law for two years, stayed, and placing him on probation for three years on condition that he be actually suspended for 60 days. Respondent stipulated to culpability in two client matters, including failure to perform services competently, failure to communicate, improper withdrawal from employment, failure to return client file, and failure to cooperate with the State Bar. His misconduct occurred from 2009 through 2012. Mitigation included emotional difficulties. He stipulated that he was suffering from depression which caused him to be unable to face his client obligations or even to open his mail. (Supreme Court case No. S210236; State Bar Court case Nos. 12-O-10256 and 12-O-12009.)⁴

Harm to Client/Public/Administration of Justice (Std. 1.5(f).)

The State Bar claimed that Respondent significantly harmed the lienholder due to the delay in recovering his liens and the fact that he had to pursue payment. However, there is no

³ All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, effective January 1, 2014.

⁴ Evidence of Respondent's prior record was not authenticated or complete. (Rules Proc. of State Bar, rule 5.106.) Thus, the court takes judicial notice of the Supreme Court order, S210236, filed July 9, 2013, and the stipulation filed March 6, 2013, in case Nos. 12-O-10256 and 12-O-12009.

clear and convincing evidence that the six-month delay in payment to Dr. Paz resulted in significant harm, other than the brief loss of use of the funds. Thus, the court declines to find that Dr. Paz was significantly harmed.

Mitigation

Extreme Emotional/Physical Difficulties (Std. 1.6(d).)

Although mitigation was given in his prior record of discipline for his emotional difficulties, Respondent is also entitled to mitigation credit for his depression in this matter because the misconduct here occurred before the stipulation in the prior record was filed (March 2013) and at that time he was still suffering from depression. His misconduct was confined to the period in which he was experiencing severe emotional problems between 2009 and 2013.

Respondent's psychiatrist, Dr. Gus Dixon, has been treating Respondent since April 2011 for depression, anxiety, and related stress. There is a clear nexus between Respondent's misconduct and his mental issues. Dr. Dixon indicated that Respondent's depression overwhelmed him and although he knew what he was responsible to do with regard to his cases, he was unable to bring himself to work on them. He would stay in bed and miss work for days on end. Based on the treatment and therapy, Dr. Dixon opined that Respondent's progress has been promising and that Respondent is working toward resolving all matters to achieve a stable life. Respondent continues to be treated by Dr. Dixon.

Candor/Cooperation to Victims/State Bar (Std. 1.6(e).)

Respondent's candor and cooperation with the State Bar, by entering into a stipulation to the facts as well as culpability, is given significant weight in mitigation. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [significant mitigating factor given for entering into a stipulation as to the facts and culpability in order to simplify the disciplinary proceedings against the attorney].)

Remorse/Recognition of Wrongdoing (Std. 1.6(g).)

Respondent acknowledged his wrongdoing, demonstrated remorse for his conduct, and accepted responsibility for his malfeasance. In his letter to Dr. Paz on November 2, 2012, Respondent wrote: "I have tried to explain my situation over the last 2 years, however, they are just words to those who don't know what depression can do to someone. It's almost like I am whining, but I will stand by and behind my failings and, therefore, in spite of this, I take full responsibility for my failings and will fall on the sword." He made restitution to Dr. Paz by December 2012, before the State Bar wrote to him in February 2013 about the complaint. The court assigns significant mitigation to this factor.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney but to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate level of discipline, this court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) The court then looks to the decisional law. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.) As the Review Department noted more than 20 years ago in *In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404, 419, even though the standards are not to be applied in a talismanic fashion, they are to be followed unless there is a compelling reason that justifies not doing so. (Accord, *In re Silverton* (2005) 36 Cal.4th 81, 91; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.) Ultimately, in determining the appropriate level of discipline, each case must be decided on its own facts after a balanced

consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *Gary v. State Bar* (1988) 44 Cal.3d 820, 828; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

Standard 1.7(a) provides that, when a member commits two or more acts of misconduct and the standards specify different sanctions for each act, the most severe sanction must be imposed.

However, standard 1.7(c) provides that if mitigating circumstances are found, they should be considered alone and in balance with any aggravating circumstances, and if the net effect demonstrates that a lesser sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a lesser sanction than what is otherwise specified in a given standard. On balance, a lesser sanction is appropriate in cases of minor misconduct, where there is little or no injury to a client, the public, the legal system, or the profession and where the record demonstrates that the member is willing and has the ability to conform to ethical responsibilities in the future.

Standard 1.8(a) provides that if a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.

In this case, the standards provide a broad range of sanctions ranging from reproof to disbarment, depending upon the gravity of the offenses and the harm to the victim. Standards 2.1(a), 2.7, and 2.8(b) apply in this matter.

Standard 2.1(a) provides that disbarment is appropriate for intentional or dishonest misappropriation of entrusted funds or property, unless the amount misappropriated is

insignificantly small or the most compelling mitigating circumstances clearly predominate, in which case actual suspension of one year is appropriate.

Standard 2.7 provides that disbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of a material fact, depending on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member's practice of law.

Finally, standard 2.8(b) provides that reproof is appropriate for a violation of the duties required of an attorney under Business and Professions Code section 6068, subdivisions (i), (j), (l) or (o).

The State Bar argues that Respondent should be disbarred from the practice of law.

Respondent urges that any level of discipline would be acceptable but disbarment.

The following cases provide guidance on the appropriate level of discipline involving misappropriation – a period of actual suspension ranging from three months to three years.

In *Greenbaum v. State Bar* (1976) 15 Cal.3d 893, the attorney was actually suspended for three months with a stayed suspension of four years for misappropriating and commingling his client funds of \$11,000. In particular, he appropriated \$6,000 of client funds to his own use, treating it as a loan from his client without his client's authority. His misconduct was not excused in any way merely because his client ultimately suffered no loss as he had repaid the client. (*Id.* at p. 903.) The attorney remained unrepentant and maintained that he was justified in using his client's funds and taking out the loan.

In *Edwards v. State Bar* (1990) 52 Cal.3d 28, the Supreme Court actually suspended the attorney for one year for misappropriating \$3,000 of client funds. In mitigation, the court found that the attorney made full repayment within three months of the misappropriation, was candid

with the client and the State Bar and took voluntary steps to improve his handling of entrusted funds. He had practiced law for 12 years without prior discipline.

In *Boehme v. State Bar* (1988) 47 Cal.3d 448, the Supreme Court suspended an attorney from the practice of law for 18 months for misappropriating \$3,300 in settlement funds belonging to a client and the client's medical provider and for making false and misleading statements to the State Bar Court. The attorney had been admitted to practice for 20 years and had no prior disciplinary record. In aggravation, the attorney showed no remorse and failed to repay the client. The Supreme Court found that disbarment was excessive and unwarranted for the attorney's single instance of misconduct in light of his health problems and prior good record.

Furthermore, in light of Respondent's mental difficulties, the court finds the following cases involving attorneys with emotional problems to be instructive.

In *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, the attorney's misconduct demonstrated a common pattern of misconduct involving client abandonment and misrepresentations, misappropriation of funds and other violations in 14 client matters. During this period, the attorney was beset with a series of emotional problems, beginning with a severe depression, an unstable relationship with her drug-abusing husband, the break-up of her marriage after her husband was diagnosed with a brain tumor, and serious personal injuries from automobile and slip-and-fall accidents, and a daughter born with cerebral palsy after a difficult pregnancy. The Supreme Court held that a two-year actual suspension was unnecessarily harsh given the significant mitigating circumstances and imposed a one-year actual suspension with a five-year stayed suspension and a five-year probation. Noting that most of her misconduct was confined to the period in which she was experiencing severe financial and emotional problems, that she had substantially improved her condition through counseling and that she had indicated a

desire to make restitution, the court found that the evidence demonstrated personal difficulties for which her inattention to her practice was not condoned, but understood.

In *Porter v. State Bar* (1990) 52 Cal.3d 518, the Supreme Court imposed a two-year actual suspension for an attorney who committed serious misconduct in nine client matters, including misappropriation of over \$14,500 in trust funds, writing a bad check, forgery, lying to clients, and unlawfully practice law while suspended. In one matter, he settled the case for \$5,000 without the client's consent or knowledge, forged the client's name to a release and her endorsement on the check, and kept the money. He had strong mitigating factors, such as extreme emotional difficulties and rehabilitation evidenced by community and professional activities. He sought psychological treatment for his emotional difficulties and his psychoanalyst concluded that he was fully recovered.

Finally, in *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, the attorney engaged in serious misconduct, including client abandonment, failure to return unearned fees, misappropriation of trust funds belonging to a bankruptcy estate, acts of deceit and dishonesty, and failure to perform competently. The Review Department concluded that in light of her emotional difficulties and subsequent rehabilitation, public protection did not require Respondent's disbarment. Respondent was suspended for five years, stayed, placed on probation for five years, and actually suspended for three years and until she made restitution and demonstrated rehabilitation and fitness to practice.

In this matter, Respondent's misconduct is far less egregious than that of *Silva-Vidor* (one year's actual suspension; 14 client matters); *Porter* (two years' actual suspension; nine client matters); and *Frazier* (three years' actual suspension; five client matters) in that it did not involve multiple clients or deceit and is therefore distinguishable. But like those attorneys, Respondent's emotional difficulties were directly responsible for his misbehaviors and his rehabilitation has

been shown. And like the attorneys in *Greenbaum* and *Edwards*, he made restitution to the lienholder before the NDC was filed against him, whereas the attorney in *Boehme* did not repay the client of the settlement funds.

The State Bar's recommended disbarment would clearly be excessive, would not further the objectives of attorney discipline and would be punitive in nature

“In a society where the use of a lawyer is often essential to vindicate rights and redress injury, clients are compelled to entrust their claims, money, and property to the custody and control of lawyers. In exchange for their privileged positions, lawyers are rightly expected to exercise extraordinary care and fidelity in dealing with money and property belonging to their clients. [Citation.] Thus, taking a client's money is not only a violation of the moral and legal standards applicable to all individuals in society, it is one of the most serious breaches of professional trust that a lawyer can commit.” (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221.)

The Supreme Court has recognized that not every misappropriation which is technically willful is equally culpable. (*Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1367.) Elements of dishonesty, concealment or deceit are often found in misappropriation cases in which the attorney has been disbarred for serious misconduct or received a lengthy suspension for less serious misconduct. (See, i.e., *Chang v. State Bar* (1989) 49 Cal.3d 114; *Hitchcock v. State Bar* (1989) 48 Cal.3d 690; *Rimel v. State Bar* (1983) 34 Cal.3d 128 [disbarment cases]; *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357 [explained further in *Hipolito v. State Bar* (1989) 48 Cal.3d 621, 627-628]; *Mack v. State Bar* (1970) 2 Cal.3d 440 [suspension cases].)

Here, Respondent misappropriated funds for his own benefit and delayed payment to the lienholder for about six months. But like the attorney in *Silva-Vidor*, Respondent's misconduct was confined to the period in which he was experiencing extreme emotional problems, that he had substantially improved his condition through counseling, and that he had fully cooperated

with the State Bar in this disciplinary proceeding. His psychiatrist believes that his prognosis is good.

Moreover, this is a single misappropriation involving one lienholder, and while \$6,000 is a significant amount, Respondent repaid the funds before the State Bar informed him of the complaint, albeit after Dr. Paz had already filed a complaint against him with the State Bar. Respondent admitted his misappropriation to Dr. Paz and tried to make amends. He cooperated with the State Bar and displayed candor in these proceedings by stipulating to the facts and culpability.

In recommending discipline, the “paramount concern is protection of the public, the courts and the integrity of the legal profession.” (*Snyder v. State Bar* (1990) 49 Cal.3d 1302.) After balancing all relevant factors and in light of the case law and standards, the court concludes that disbarment would be unduly harsh. There is "no evidence that a sanction short of disbarment is inadequate to deter future misconduct and protect the public." (*Maltaman v. State Bar* (1987) 43 Cal.3d 924, 958.) The court concludes that Respondent should be given another chance to prove to this court that he is willing and capable of discharging his duties as an attorney in a professional manner. Accordingly, the court determines that an 18 months' actual suspension is proper and adequate for the protection of the public, the courts and the legal profession.

Recommendations

It is recommended that Respondent Robert Roman, State Bar Number 93369, be suspended from the practice of law in California for three years, that execution of that period of

suspension be stayed, and that Respondent be placed on probation⁵ for a period of three years subject to the following conditions:

1. Respondent Robert Roman is suspended from the practice of law for a minimum of the first two years of probation and until he provides proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).);
2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of Respondent's probation.
3. Within 30 days after the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
4. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including Respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, Respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.
5. During the probation period, Respondent must report in writing quarterly to the Office of Probation. The reports must be postmarked no later than each January 10, April 10, July 10, and October 10 of the probation period. Under penalty of perjury, Respondent must state in each report whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of Respondent's probation conditions during the preceding calendar quarter or applicable reporting period. If the first report would cover less than 30 days, no report is required at that time; however, the following report must cover the period of time from the commencement of probation to the end of that next quarter. In addition to all quarterly reports, a final report must be postmarked no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.
6. Subject to the assertion of applicable privileges, Respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to Respondent personally or in writing, relating to whether Respondent is complying or has complied with Respondent's probation conditions.

⁵ The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

7. Within one year after the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of successful completion of the State Bar's Ethics School and Client Trust Accounting School and passage of the tests given at the end of those sessions. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending those schools. (Rules Proc. of State Bar, rule 3201.)
8. At the expiration of the probation period, if Respondent has complied with all conditions of probation, Respondent will be relieved of the stayed suspension.

Multistate Professional Responsibility Exam

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) because he was previously ordered to do so in S210236.

California Rules of Court, Rule 9.20

It is further recommended that Respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Dated: January ____, 2014

DONALD F. MILES
Judge of the State Bar Court